IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 985 of 1997

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

D S BACHANI

Versus

STATE OF GUJARAT

Appearance:

MR MB PARIKH for Petitioner No. 1

MR KL PANDYA, learned AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/04/2004

ORAL JUDGEMENT

1. The petitioner is carrying on the business at Majurgam, Gita Mandir Road, Ahmedabad. On 24th May 1994 the officers of the respondent no.2 has searched the premises of the petitioner and found that 2089 kgs. of groundnut oil, 195 kgs of vegetable ghee, 120 kgs of

Rayda oil and 390 kgs of rapeseed oil were excessive and 310 kgs. of cotton seed oil were less. Allegations were made against the petitioner that bills and Mudatti Patrak were not produced and opening stock was not dispatched.

2. Show-cause notice was issued to the petitioner by the respondent no.2 on 30th July 1994 and the petitioner filed his reply on 19th September 1994. After considering the reply of the petitioner, the respondent no.2 passed an order on 7th December 1994, whereby order of confiscation was passed of the commodity worth Rs.30000/-, which came to 33% of the total value of the confiscated goods.

3. The petitioner carried the matter in revision before the State Government, which came to be partly allowed and the penalty of Rs.30000/- was reduced to Rs.20000/- by order dated 24th October 1996. In the present petition the petitioner has challenged the said order dated 24th October 1996 passed by the revisional authority.

4. Mr. Parikh for the petitioner has contended that looking to the allegations levelled against the petitioner in the show-cause notice, the penalty imposed by the authority is disproportionate to the allegations which are proved against the petitioner. He submitted that the alleged breaches are of technical nature and there ought not to have been any penalty at all.

5. The submission of Mr. Parikh cannot be accepted inasmuch as the revisional authority has reduced the penalty looking to the evidence on record and has imposed minimum penalty of 22%. Both the authorities have found that the petitioner has committed breach of the provisions of the Act and the Rules and imposition of penalty being a discretion of the authority, the authority has imposed the minimum penalty. Learned counsel for the petitioner has not pointed anything to show that the discretion exercised by the revisional authority is in any manner illegal and arbitrary and disproportionate to the allegations levelled against the petitioner.

6. In the result, the is no substance in the petition. Accordingly the petition is rejected. Rule is dishcarged with no order as to costs.

[K.S. JHAVERI, J.]
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